

COURT'S STANDARD INSTRUCTIONS TO THE JURY IN A CRIMINAL TRIAL

(Before Deliberations)

It is my duty to instruct you on the rules of law that you must use in deciding this case. After I've completed these instructions, you will go to the jury room and begin your discussions or what we call your deliberations in this case.

You must decide whether the Government has proved beyond a reasonable doubt the specific facts necessary to find the Defendant guilty of the crime[s] charged in the indictment.

**DUTY TO FOLLOW INSTRUCTIONS
PRESUMPTION OF INNOCENCE
(DEFENDANT TESTIFIES)**

Your decision must be based only on the evidence presented here. You must not be influenced in any way by either sympathy or prejudice for or against the Defendant or the Government.

You must also follow the law as I explain it, even if you do not agree with the law. And, you must follow all of my instructions as a whole. You may not single out, or disregard, any of my instructions on the law.

The indictment or formal charge[s] against a defendant is not evidence of guilt. The law presumes that every defendant is innocent. The Defendant does not have to prove [his][her] innocence or produce any evidence at all. The Government must prove guilt beyond a reasonable doubt, and if it fails to do so you must find [the][that] Defendant not guilty.

**DUTY TO FOLLOW INSTRUCTIONS
PRESUMPTION OF INNOCENCE
(DEFENDANT DOES NOT TESTIFY)**

You must make your decision only on the evidence presented here during the trial; and you must not be influenced in any way by either sympathy or prejudice for, or against, the Defendant or the Government.

You must also follow the law as I explain it, even if you do not agree with the law. And you must follow all of my instructions as a whole. You may not single out, or disregard, any of my instructions on the law.

The indictment or formal charge[s] against a defendant is not evidence of guilt. The law presumes that every defendant is innocent. The Defendant does not have to prove [his][her] innocence or produce any evidence at all. A defendant does not have to testify, and if a defendant chooses not to testify, you cannot consider that in any way during your deliberations. The Government must prove guilt beyond a reasonable doubt, and if it fails to do so you must find [the][that] defendant not guilty.

DEFINITION OF REASONABLE DOUBT

While the Government's burden of proof is a heavy one, the Government does not have to prove a defendant's guilt beyond all possible doubt. The Government's proof only has to exclude any "reasonable doubt" concerning the Defendant's guilt.

A "reasonable doubt" is a real doubt, based upon your reason and common sense, after you've carefully and impartially considered all the evidence in the case.

"Proof beyond a reasonable doubt," is proof so convincing that you would be willing to rely and act on it without hesitation in the most important of your own affairs. If you are convinced that the Defendant has been proved guilty beyond a reasonable doubt, say so. If you are not convinced, say so.

**CONSIDERATION OF THE EVIDENCE, DIRECT
AND CIRCUMSTANTIAL--ARGUMENT OF COUNSEL
COMMENTS BY THE COURT**

As I mentioned earlier, you must consider only the evidence that I admitted in the case. “Evidence” includes the testimony of witnesses and the exhibits admitted during the trial. Remember, anything the lawyers say is not evidence in the case and it isn’t binding on you. Your own recollection and interpretation of the evidence is what matters.

You should not assume from anything I may have said that I have any opinion about any factual issues in this case. Except for my instructions to you on the law, [and any limiting instructions I gave regarding your consideration of certain evidence,] you should disregard anything I may have said during the trial in arriving at your own decision concerning the facts.

In considering the evidence, you may use reason and common sense to make deductions and to reach conclusions. You should not be concerned about whether the evidence is direct or circumstantial.

“Direct evidence” is the testimony of a person who asserts that he or she has actual knowledge of a fact, such as an eye witness.

“Circumstantial evidence” is proof of a chain of facts and circumstances tending to prove, or disprove, a fact. Let me give you an example to illustrate the difference. (**Example**). There is no legal difference in the weight you may give to either direct or circumstantial evidence.

CREDIBILITY OF WITNESSES

When I say you must consider all of the evidence, I do not mean that you must accept all of the evidence as true or accurate. You should decide whether you believe what each witness had to say, and the importance of that testimony. In making that decision you may believe or disbelieve any witness, in whole or in part. Also, the number of witnesses testifying concerning any particular point doesn't necessarily matter.

To decide whether you believe any witness I suggest that you ask yourself a few questions:

1. Did the witness impress you as one who was telling the truth?
2. Did the witness have any particular reason not to tell the truth?
3. Did the witness have a personal interest in the outcome of the case?
4. Did the witness seem to have a good memory?

5. Did the witness have the opportunity and ability to observe accurately the things he or she testified about?
6. Did the witness appear to understand the questions clearly and answer them directly?
7. Did the witness's testimony differ from other testimony or other evidence?

[Felony Offense: To decide whether you believe a witness, you may consider the fact that a witness has been convicted of a felony offense, or a crime involving dishonesty or a false statement.

IMPEACHMENT INCONSISTENT STATEMENT AND FELONY CONVICTION

You should also ask yourself whether there was evidence that a witness testified falsely about an important fact. And ask whether there was evidence that, at some other time, a witness said or did something, or didn't say or do something, that was different from the testimony the witness gave during this trial.

But keep in mind, that a simple mistake does not mean a witness was not telling the truth as he or she remembers it, because people naturally tend to forget some things or remember them inaccurately. If a witness misstated something, you must decide whether it was because of an innocent lapse in memory or an intentional deception. The significance of your decision may depend on whether the misstatement is about an important fact or about an unimportant detail.

**DEFENDANT TESTIFIES
WITH NO FELONY CONVICTION**

A defendant has a right not to testify. Since the defendant did testify in this case, you should decide whether you believe the defendant's testimony in the same way you evaluated the credibility of any other witness.

DEFENDANT TESTIFIES WITH FELONY CONVICTION

A defendant has a right not to testify. Since the Defendant did testify in this case, you should decide whether you believe the Defendant's testimony in the same way you evaluated the credibility of any other witness.

[Evidence that a defendant was previously convicted of a crime is not evidence of guilt of the crime[s] in this trial. But, you may use the evidence to decide whether you believe the Defendant's testimony.]

**IMPEACHMENT
BAD REPUTATION (OR OPINION) CONCERNING
TRUTHFULNESS**

There may also be evidence tending to show that a witness has a bad reputation for truthfulness in the community where the witness resides, or has recently resided; or that others have a bad opinion about the witness's truthfulness.

You may consider reputation and community opinion evidence in deciding whether to believe or disbelieve a witness.

EXPERT WITNESSES

Expert testimony was admitted in this case. When scientific, technical, or other specialized knowledge might be helpful in a case, a person who has special training or experience in a particular field is allowed to state an opinion about the matter.

That does not mean that you must accept the expert witness's opinion. As with any other witness, you must decide the extent to which, if any, to rely upon the opinion offered.

NOTETAKING

You have been permitted to take notes during the trial. Most of you—perhaps all of you—have taken advantage of that opportunity.

You must use your notes only as an aid to your memory during your deliberations. You must not give your notes priority over your independent recollection of the evidence. You also must not allow yourself to be unduly influenced by the notes of other jurors.

I emphasize that notes are not entitled to any greater weight than your memories or impressions about the testimony.

INTRODUCTION TO SPECIFIC OFFENSE INSTRUCTION

The indictment charges [number] separate crimes, called “counts,” against the Defendant. You will be given a copy of the indictment to refer to the charges during your deliberations.

To find the Defendant guilty of any of the count[s] charged in the indictment, the government must prove to you beyond a reasonable doubt that the Defendant committed each element of the offense. Let me explain now the charge[s] alleged and the elements of the charge[s].

[Add elements of each offense]

ON OR ABOUT

You will see that the indictment charges that a crime was committed “on or about” a certain date. The Government does not have to prove that the crime occurred on an exact date. The Government only has to prove beyond a reasonable doubt that the crime was committed on a date reasonably close to the date alleged.

KNOWINGLY AND WILLFULLY AND SPECIFIC INTENT

The word “knowingly,” means that an act was done voluntarily and intentionally, and not because of mistake or by accident.

The word “willfully” means that the act was committed voluntarily and purposely, with the intent to do something the law forbids; that is with the bad purpose to disobey or disregard the law. While a person must have acted with the intent to do something the law forbids before you can find that the person acted “willfully,” the person need not be aware of the specific law or rule that [his][her] conduct may be violating.

CAUTION – PUNISHMENT
(SINGLE DEFENDANT – SINGLE COUNT)

I caution you that the Defendant is on trial only for the specific crime charged in the indictment. You are here to determine from the evidence in this case whether the Defendant is guilty or not of that specific crime.

You must never consider punishment in any way in deciding whether the Defendant is guilty or not guilty. If you find the Defendant guilty, the punishment is for me alone to decide later.

CAUTION – PUNISHMENT
(SINGLE DEFENDANT – MULTIPLE COUNTS)

Each count of the indictment charges a separate crime. You must consider each crime and the evidence relating to it considered separately. If you find the Defendant guilty or not guilty of one crime, that must not affect your verdict for any other crime.

I caution you that the Defendant is on trial only for those specific crimes charged in the indictment. You are here to determine from the evidence in this case whether the Defendant is guilty or not guilty of these specific crimes.

You must not consider punishment in any way in deciding whether the Defendant is guilty or not guilty. If you find the Defendant guilty, the punishment is for me alone to decide later.

**CAUTION – PUNISHMENT
(MULTIPLE DEFENDANTS – SINGLE COUNT)**

You must consider the case of each defendant and the evidence relating to it be considered separately and individually. If you find one defendant guilty, that must not affect your verdict for any other defendant.

I caution you, that each defendant is on trial only for the specific crimes alleged in the indictment. You are here to determine from the evidence in this case whether each defendant is guilty or not guilty.

You must not consider punishment in deciding whether a defendant is guilty. If you find a defendant guilty, punishment is for me alone to determine later.

**CAUTION – PUNISHMENT
(MULTIPLE DEFENDANTS – MULTIPLE COUNTS)**

Each count of the indictment charges a separate crime against one or more of the defendants. You must consider each crime, and the evidence relating to it separately. And you must consider the case of each defendant separately and individually. If you find a defendant guilty of one crime, that must not affect your verdict for any other crime or any other defendant.

I caution you that each defendant is on trial only for the specific crimes charged in the indictment. You are here to determine from the evidence in this case whether each defendant is guilty or not guilty of these specific crimes.

You must not consider punishment in any way in deciding whether a Defendant is guilty. If you find a Defendant guilty, the punishment is for me alone to decide later.

DUTY TO DELIBERATE

Your verdict, whether guilty or not guilty, must be unanimous – in other words, you must all agree. Your deliberations are secret; and you will never have to explain your verdict to anyone.

You must discuss the case with one another to try to reach agreement. Each of you must decide the case for yourself, but only after fully considering the evidence with the other jurors. While you are discussing the case, do not hesitate to reexamine your own opinions and change your mind if you become convinced that you were wrong. But do not give up your honest beliefs just because the others think differently, or simply because you want to conclude the case.

Remember that in a very real way you are judges – judges of the facts. Your only interest is to seek the truth from the evidence in this case.

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone, cell or

smart phone, Blackberry or computer, the internet, or any messaging service to communicate to anyone any information about this case, or to conduct any research about this case until I accept your verdict.

FOREPERSON AND PROCEDURE

When you get to the jury room you should choose one of your members to act as foreperson. The foreperson will direct your deliberations and will speak for you in court. A verdict form has been prepared for your convenience.

[Explain Verdict Form]

Take the verdict form with you to the jury room. When you have all agreed on the verdict, your foreperson must fill in the form, sign it and date it, and advise the Court Security Officer that you have reached a verdict. He will notify me so we can reconvene in the courtroom.

If you wish to communicate with me at any time, please write down your message, or question, and give it to the Court Security Officer who will bring it to my attention. I will respond as soon as possible, either in writing or by talking to you in the courtroom. But I caution you – do not disclose in your notes or in court to me how many jurors have voted one way or the other.

These are your instructions. You will now go to the jury room but do not begin your deliberations until you receive the exhibits and I tell you that your deliberations may begin.

Names of Alternates: _____, _____.